IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1272 OF 2005

Smt. Juhi V. Mehta ...Applicant.

V/s

The State of Maharashtra
& Anr. ...Respondents.

Mr. Sayaji D. Nangre for the applicant.

Ms. Mrunalini Deshmukh for respondent No.2.

Mr. D.P. Adsule for the State.

CORAM: V.M.KANADE,J.

DATE: 10th March, 2005

P.C.:

1. Heard the learned Counsel for the applicant and the learned Counsel for the respondent No.2.

2. This is an application filed by the original complainant for quashing the complaint which was filed by her and which is pending in the Court of Metropolitan Magistrate, 21st Court at Bandra vide C.C. No.2369/PW/2004.

3. The applicant is a wife of respondent No.2 and they have married on 11th June, 1994 in Mumbai and, thereafter, some differences arose between the parties. The applicant also filed a petition in the Family Court at Bandra praying for annulment of

marriage. Thereafter, a complaint was filed by her which is numbered as C.C. No.2369/PW/2004 for an offence punishable under section 406, 420, 494, 496, 497 and 506(II) of the Indian Penal Code.

4. The applicant and respondent No.2 have settled their differences and having resolved their dispute, they are now living again as husband and wife along with their daughter. In view of these changed circumstances, this application has been filed by the applicant under section 482 of the Code of Criminal Procedure.

5. It is not doubt true that the offence which is registered under sections 406, 420, 494, 496, 497 and 506(II) of the Indian Penal Code is noncompoundable in view of the provisions of section 320 of the Code of Criminal Procedure and, therefore, the applicant could not file an application for compounding the offence before the Metropolitan Magistrate.

6. However, while exercising jurisdiction under section 482 of the Code of Criminal Procedure, inherent powers of this Court are not curtailed by virtue of the provisions of section 320 of the Code of Criminal Procedure. I am fortified in my view by the

judgment of the Apex Court in the case of B.S.Joshi and Ors. V. State of Haryana and Anr. reported in JT 2003 (3) SC 277.

7. The applicant - original complainant is present in court. I have interviewed her. I am satisfied that there is no pressure or coercion which is exercised by any person on the applicant and that she is happily staying along with respondent No.2. This is one of the rare cases where, after initial separation and application filed for divorce, the parties, in mutual interest, have resolved their differences. In my view, this is a fit case for quashing the complaint which has been filed in the Court of Metropolitan Magistrate, 21st Court at Bandra, Mumbai.

8. In the result, proceedings being C.C.No.2369/PW/2004 pending in the Court of Metropolitan Magistrate, 21st Court at Bandra, Mumbai are quashed and set aside. The complaint filed by the applicant in Santacruz Police Station vide FIR No. 302 of 2003 is also quashed. Leave to amend.

9. Application is allowed in the above terms.

V.M. KANADE, J.